

PATENT COOPERATION TREATY

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30 MAR 2004

PCT Received NFSP

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT
(PCT Rule 71.1)

Date of mailing
(day/month/year)

29.03.2004

Applicant's or agent's file reference
JNR/PG4795

IMPORTANT NOTIFICATION

International application No.
PCT/GB 03/1448

International filing date (day/month/year)
03.04.2003

Priority date (day/month/year)
04.04.2002

Applicant
GLAXO GROUP LIMITED

04.10.2004 = 36 mths

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:



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PATENT COOPERATION TREATY



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference JNR/PG4795	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/01448	International filing date (<i>day/month/year</i>) 03.04.2003	Priority date (<i>day/month/year</i>) 04.04.2002
International Patent Classification (IPC) or both national classification and IPC B30B11/08		
Applicant GLAXO GROUP LIMITED		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
- I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 22.10.2003	Date of completion of this report 29.03.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Real Cabrera, R Telephone No. +31 70 340-4256 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/01448

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-22 as originally filed

Claims, Numbers

1-85 as originally filed

Drawings, Sheets

1/8-8/8 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/01448**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	-
	No: Claims	1-85
Inventive step (IS)	Yes: Claims	-
	No: Claims	1-85
Industrial applicability (IA)	Yes: Claims	1-85
	No: Claims	-

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB03/01448

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following document:

D1: WO-A-0071419 (WILSON ALAN ANTHONY ;GLAXO GROUP LTD (GB);
FARR PHILLIP WILLIAM (G) 30 November 2000 (2000-11-30) cited in the
application

- 2.1 **Claim 40** comprises all the features of **claim 1** and is therefore not appropriately formulated as a claim dependent on the latter (Rule 6.4 PCT).
- 2.2 **Claim 79** comprises all the features of **claim 45** and is therefore not appropriately formulated as a claim dependent on the latter (Rule 6.4 PCT).
- 2.3 The rights conferred by a method claim extend to the products directly obtainable by such a method. **Claim 85** is therefore unnecessary and should be deleted.
- 2.4 The relative terms "*acute*", "*thin*" and "*dense*" used in **claims 10, 13, 17, 33, 54 and 57** have no well-recognised meaning and leave the reader in doubt as to the meaning of the technical feature to which they refer, thereby rendering the definition of the subject-matter of said claims unclear (Article 6 PCT).
- 2.5 **Claims 21 and 64** refer to the relative position of the two director blades as being the subsequent director blade "*at a lower level*" or "*closer*" than the first director blade. However, **claims 22 and 65** refer to a selected range of distances which includes a distance of 0 mm. This implies that both sets of blades would be positioned at the same level when the distance is 0 mm. Therefore, **claims 22 and 64** are not congruent with **claims 21 and 65**, thereby rendering the definition of the subject-matter of said claims unclear (Article 6 PCT).
- 2.6 Apparatus **claims 83 and 84** refer to the use of the apparatus, and not to technical features of the apparatus as such. Thus, they must be deleted.
- 3.1 Document D1, which is considered to represent the most relevant state of the art,

discloses (cf. figures; page 3, lines 11-20; and, page 9, line 19 to page 13, line 18) *a method of forming a tablet product, which comprises:*

- a) closing off a perforation in a perforated plate;*
- b) directing powder into said closed-off perforation by the sweeping action of a first director blade spaced from said perforated plate;*
- c) compacting said powder in the closed-off perforation to form a tablet; and*
- d) transferring said tablet from the closed-off perforation,*
whereby there is a relative rotary motion of the perforated plate and said first director blade (cf. page 3, lines 11-20).

The subject-matter of **claim 1** is therefore not novel (Article 33(2) PCT).

3.2 Document D1, which is considered to represent the most relevant state of the art, discloses (cf. figures; page 3, lines 11-20; and, page 9, line 19 to page 13, line 18) *an apparatus for loading a container with a defined quantity of product, which comprises:*

- a) a perforated plate (10);*
- b) a closure (20) for reversibly closing off a perforation in the perforated plate;*
- c) a director (40) for directing powder into said closed-off perforation, said director comprising a first director blade spaced from the perforated plate;*
- d) a compactor (270) for compacting said powder in the closed-off perforation to form a tablet; and*
- e) a transferor for transferring said tablet from the closed-off perforation,*
wherein the perforated plate and said first director blade are movable in a relative rotary fashion (cf. page 3, lines 11-20).

The subject-matter of **claim 45** is therefore not novel (Article 33(2) PCT).

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB03/01448

4. Dependent **claims 2-44 and 46-82** do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, the reasons being as follows:
 - 4.1 The additional features of **claims 2-44** are already disclosed in document D1, cf figures.
 - 4.2 The additional features of **claims 46-82** are already disclosed in document D1, cf figures.
5. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).